

THE HONORABLE DAVID W. CHRISTEL

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DONALD E. MORISKY, an individual,

Plaintiff,

v.

MMAS RESEARCH, LLC, a Washington
limited liability company, et al.,

Defendants.

Case No. 2:21-cv-01301 RSM-DWC

**ORDER ON MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS**

Upon consideration of the parties' LCR 37 JOINT SUBMISSION REGARDING REQUEST
FOR PRODUCTION OF DOCUMENTS,

IT IS HEREBY ORDERED that the Motion is Granted, as follows:

Document Request 1. Documents and exhibits identified in your Answer's to Plaintiff's
Interrogatories and Request for Admissions.

Order: Granted

Document Request 2. All documents identified, mentioned, or to which you referred in your Rule
26(a) Disclosures served in this case.

Order: Granted.

Document Request 3. Produce all Documents related to your purported ownership of the copyright for the Source Code for the Morisky Widget (the Morisky Widget), including a complete copy of all Documents or other tangible items deposited with the U.S. Copyright Office, and any other Documents relating to the copyright application submitted to the U.S. Copyright Office (including, without limitation), all correspondence, notices, etc.

Order: Granted, with such production to include Defendants producing all the materials submitted in connection with Defendants' copyright registration application, communications with the Copyright Office, documents related to Defendants' alleged authorship of the Source Code, or any licenses for use of third-party content.

Document Request 4. Identify and produce the entire Source Code and all variations of the same for the Morisky Widget as it existed between December 6, 2020, to the present.

Order: Defendants shall produce the Source Code.

Document Request 5. Produce copies of all Documents (including Pre-settlements, settlement agreements, and license agreements, with a third party) related to any transactions involving the Morisky Widget for the period of July 2, 2020, to December 6, 2020, and for the period of December 6, 2020 to the present.

Order: Granted

Document Request 6. Produce all Documents (including Pre-settlement Agreements, settlement agreements, and license agreements, with a third party) resulting from litigation where the MMAS Parties or any of them were listed as co-plaintiff with Dr. Morisky for the period of July 2, 2020 to December 6, 2020, and for the period of December 6, 2020 to the present.

Order: Granted.

Document Request 7. Produce all Documents (including Pre-settlement Agreements, settlement agreements, and license agreements, with a third party) resulting from litigation where the MMAS Parties or any of them were listed as a plaintiff in which Dr. Morisky is not listed as a plaintiff for the period of July 2, 2020 to December 6, 2020, and for the period of December 6, 2020 to the present.

1 **Order:** Granted, subject to Defendants not disclosing any attorney-client communication but
2 requiring Defendants to produce a privilege log.

3 **Document Request 8.** Produce all Documents relating to transaction(s) involving the GMRP or any
4 iteration of the same for the period of July 2, 2020 to December 6, 2020, and for the period of
5 December 6, 2020 to the present.

6 **Order:** Granted.

7 **Document Request 9.** Produce all Financial Documents related to the Morisky Widget, the MMAS-
8 4, and/or the MMAS-8 (including from license agreements, Pre-settlement Agreements, and
9 settlement agreements) for the period of July 2, 2020 to December 6, 2020, and for the period of
10 December 6, 2020 to the present.

11 **Order:** Granted.

12 **Document Request 10.** Produce all Financial Statements (including, without limitation, financial
13 statements, profit and loss statements, net income statements, balance sheets, financial forecasts,
14 projections, internal memoranda, ledgers, journals, bookkeeping entries, and business plans, etc.)
15 showing revenues actually or expected to be received from the licensing of the Morisky Widget,
16 Morisky Adherence Scales, and GMRP for the period of July 2, 2020 to December 6, 2020 and for the
17 period of December 6, 2020 to the present.

18 **Order:** Granted.

19 **Document Request 11.** Produce all Documents related to any legal actions in any venue involving
20 any of the MMAS Parties that occurred within the United States, or in any county, for the period of
21 July 2, 2020 to December 6, 2020, and for the period of December 6, 2020 to the present.

22 **Order:** Granted.

23 **Document Request 12.** Identify and Produce all Documents (including, without limitation, demand
24 letters, emails, correspondence, court filings, etc.) related to any actions by any of the MMAS Parties
25 in any venue in the United States or in any country against any third-party alleging copyright
26 infringement or breach of a copyright license agreement for the period of July 2, 2020 to December 6,
27 2020, and for the period of December 6, 2020 to the present.

1 **Order:** Granted

2 **Document Request 13.** Produce all Documents evidencing your claims in your 5th, 6th, and 8th
3 Affirmative Defenses and your 1st Counterclaim (ECF # 94) that you were granted a license to use
4 any of the Morisky Medication Adherence Scales.

5 **Order:** Granted.

6 **Document Request 14.** Produce all Documents evidencing your claim in your 5th, 6th, and 8th
7 Affirmative Defenses (ECF # 94) that you were granted a license to use any of the Morisky
8 Trademarks (as defined in the Second Amended Complaint (ECF #22)).

9 **Order:** Granted.

10 **Document Request 15.** Produce all Documents evidencing your claim in your Seventh Affirmative
11 Defense (ECF #94) that you jointly own “the trademarks and copyrights” at issue.

12 **Order:** Granted.

13 **Document Request 16.** Produce all Documents evidencing your claim in your 3rd Counterclaim (ECF
14 #94) that Plaintiff breached the Settlement Agreement (CR2A).

15 **Order:** Granted, subject to work product and attorney-client communication protections.

16 **Document Request 17.** Produce all Documents evidencing your claim in your 4th Counterclaim (ECF
17 # 94) that Plaintiff tortiously interfered with any business expectancy of any Defendant.

18 **Order:** Granted, subject to work product and attorney-client communication protections.

19 **Document Request 18.** Produce all Documents evidencing your claim in your 5th Counterclaim (ECF
20 #94) that Plaintiff filed this action for “an extraordinary purpose.”

21 **Order:** Granted, subject to work product and attorney-client communication protections.

22 **Document Request 19.** Produce all Documents evidencing your claim in your 6th and 7th
23 Counterclaims (ECF # 94) that Plaintiff’s “Medication Adherence Platform is a copyright of the
24 Morisky Widget.”

25 **Order:** Granted, subject to work product and attorney-client communication protections.

26 **Document Request 20.** Produce all Documents evidencing your clam in your 7th Counterclaim (ECF
27 # 94) that Plaintiff copied “software contained in the Morisky Widget.”
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Order: Granted, subject to work product and attorney-client communication protections.

Document Request 21. Produce all Documents evidencing your claim for all damages alleged in your Second Amended Counterclaim (ECF # 94).

Order: Granted, subject to work product and attorney-client communication protections.

Document Request 22. Produce all Documents not otherwise requested herein that concern, support, or refute your Affirmative Defenses asserted in this action (ECF #94) including, but not limited to, any documents that concern, support, or refute any factual allegations or legal theories or conclusions Defendant[s] presented or relied on or intend to present or reply upon in connection with such defense.

Order: Granted, subject to work product and attorney-client communication protections.

It is further ORDERED that Defendant produce all documents on or before **May 15, 2023**, and that Defendants shall create a privilege log of all documents withheld, in whole or in part, from production on the basis of a privilege or protection, to be produced to Plaintiff on or before **May 15, 2023**. Privilege logs shall include a unique identification number for each document and the basis for the claim (attorney-client privileged or work-product protection).

Dated this 27th day of April, 2023.



David W. Christel
United States Magistrate Judge

Presented by:

s/ William J. Crowley
William J. Crowley
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